

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

RUSSELL ROBINSON,

Plaintiff,

vs.

CIVIL ACTION NO.: CV210-101

ANTHONY HAYNES; WILLIAM
TAYLOR, JR.; JEFF COUGHLIN;
WILLIAM MACKELBERG; PAUL
ADAMS; LUTHER SMITH; PAMELA
GREEN; AUDREY ANDERSON;
JOHN YAWN; DAVID MILLER;
JAMES O'NEILL; DWIGHT NEWBOULD;
Dr. COX; VICKY HEAD; ROYCE
SUTTON; FRANK ADAIR; FNU
DOUGLAS; CURT DAVIS; CURT
DAVIS; OSCAR MOORE; JEFFERY
DITLEFESSEN; D. SCHIAVONE;
BRUNO IERULLI; HARRELL WATTS;
ROY TROUTMAN; ET ALS, known
and unknown; LORI HARRIS; and
WILFREDO SANTIAGO,

Defendants.

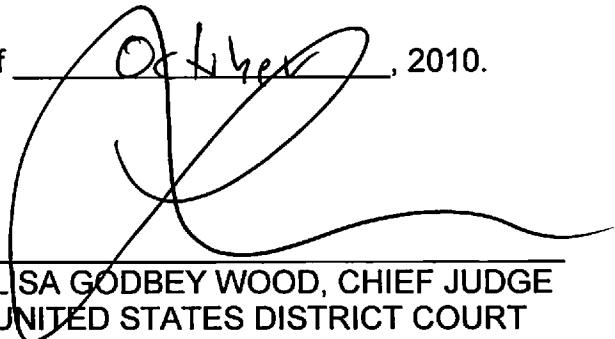
ORDER

After an independent and *de novo* review of the record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Robinson asserts the Magistrate Judge improperly construed his claim as an action filed pursuant to 28 U.S.C. § 1331 and Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971) and that he did not request *in forma pauperis* consideration in Robinson v. Romney, et al., CV308-24 (D.V.I. Jul. 15, 2010). A review of Robinson v. Romney, et al. reveals that

Plaintiff did not seek to proceed *in forma pauperis* in that action. However, Robinson did attempt to proceed *in forma pauperis* in another action that was dismissed as frivolous: Robinson v. Hickey, et al., CV209-84 (S.D. Ga. June 19, 2009). Plaintiff requests that he be allowed to resubmit his claim with payment of the full filing fee. "After the third meritless suit, the prisoner must pay the full filing fee at the time he initiates suit." Vanderberg v. Donaldson, 259 F.3d 1321, 1324 (11th Cir. 2001). "The proper procedure is for the district court to dismiss the complaint without prejudice when it denies the prisoner leave to proceed *in forma pauperis*." Dupree v. Palmer, 284 F.3d 1234 (11th Cir. 2002). Plaintiff is free to resubmit his claim and pay the full filing fee, but the Court cannot allow him to "simply pay the filing fee after being denied *in forma pauperis* status." Id.

Robinson's Objections to the Magistrate Judge's Report and Recommendation are without merit. The Report and Recommendation of the Magistrate Judge is adopted as the opinion of the Court. Robinson's Petition is **DISMISSED** without prejudice. If Robinson wishes to proceed with his claims he may pay the filing fee and submit a new complaint. The Clerk of Court is directed to enter the appropriate Judgment of dismissal.

SO ORDERED, this 6 day of October, 2010.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA